THE HON'BLE DR. JUSTICE G. YETHIRAJULU

WRIT PETITION No.17874 of 2004

Dt.14.12.2007

Between:

Kosuri Ramakrishnam Raju.

..Petitioner

And

The Regional Joint Commissioner, Kakinada, and others.

..Respondents

THE HON'BLE DR. JUSTICE G. YETHIRAJULU

WRIT PETITION No.17874 of 2004

O R D E R:

This is a writ petition filed by the petitioner seeking to declare the order dated 26.01.2004 passed by second respondent, namely, the Assistant Commissioner, Endowments Department, Eluru, West Godavari District, as confirmed by first respondent, namely, the Regional Joint Commissioner, Endowments Department, Kakinada, East Godavari District, through the order dated 14.05.2004 as illegal, arbitrary, violative of Articles 14 and 21 of the Constitution of India and contrary to the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 ('the Act' for short), and consequently to direct the official respondents to allow the petitioner to cultivate third respondent-temple's land by holding that he is entitled to the benefit under Section 82(2) of the Act.

The petitioner contends that he is in possession and enjoyment of land to an extent of Acs.2.59 cents belonging to third respondent-temple and he has been cultivating the said land since long time. By virtue of the amendment to the Act, all leases stood terminated, but he continues to be in possession of the land by claiming that he is a landless poor person entitled to get the benefit under Section 82(2) of the Act. He made an application before first respondent, who passed the order dated 26.01.2004 holding that he (petitioner) is not entitled to be recognized as a landless poor person

as he was having Acs.2.59 cents of land as a cultivating tenant.

Section 82(2) of the Act reads as follows:

> "In respect of leases of agricultural lands held by landless poor person for not less than six years continuously, such person shall have the right to purchase such lands for a consideration of seventy five per centum of the prevailing market value of similarly situated lands at the time of purchaser and such consideration shall be paid in four equal instalments in the manner prescribed. Such sale may be effected otherwise than by tender-cum-public auction:
>
> Provided that if such person fails to purchase the land in accordance with this sub-section or is unwilling to purchase the land, the lease shall be deemed to have been terminated.
>
> **Explanation**:- For the purpose of this sub-section "landless poor person" means a person whose total extent of land held by him either as owner or as cultivating tenant or as both does not exceed 1.011715 hectares (two and half acres) of wet land or 2.023430 hectares (five acres) of dry land and whose monthly income other than from such lands does not exceed two hundred and fifty rupees per mensum or three thousand rupees per annum. For the purpose of computing the extent of land 0.404686 hectares (one acre) of wet land shall be equal to 0.809372 hectares (two acres) of dry land."

As per the explanation to the said Section, a person is not entitled to be recognized as a landless poor person if he holds more than Acs.2.50 cents of wetland either as an owner or as a cultivating tenant.

Since the petitioner is in possession of Acs.2.59 cents of land as a cultivating tenant, he is not entitled to be recognized as a landless poor person. The petitioner challenged the order dated 26.01.2004

passed by second respondent by way of an appeal before first respondent, who passed the order dated 14.05.2004 in appeal No.26 of 2004 confirming the order dated 26.01.2004 by dismissing the appeal. Since this is a question of fact decided by the authorities concerned, it cannot be interfered. There is no other legal point raised by the petitioner to invoke the extraordinary jurisdiction of this Court through this writ petition. I do not find any merit in the writ petition.

The writ petition is accordingly dismissed. No costs.

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(**Dr.G. YETHIRAJULU, J**)

Dt.14.12.2007
ghn